The Planning Inspectorate

Appeal Decision

Site visit made on 26 July 2021

by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip

an Inspector appointed by the Secretary of State

Decision date: 18 August 2021

Appeal Ref: APP/U5360/F/20/3259179
35 Northchurch Road, Hackney, London N1 4ED

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Martin Josephs and Ms Celina Maguire against a listed building enforcement notice issued by the Council of the London Borough of Hackney.
- The enforcement notice was issued on 14 August 2020.
- The contravention of listed building control alleged in the notice is the addition of timber slatting to existing boundary walls.
- The requirements of the notice are:
    1) Remove all wooden fencing along the eastern and western boundary walls of the Property;
    2) Make good all damage to the boundary treatment resulting from the removal of the wooden fencing, restoring the boundary treatment to the condition before the unauthorised development was undertaken;
    3) Remove all materials, debris, waste and equipment resulting from compliance with the other requirements of the notice from the property and its premises.
- The period for compliance with the requirements is 4 months.
- The appeal is made on the grounds set out in section 39(1)(e) and (f) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

Summary of Decision: The appeal is allowed, the listed building enforcement notice is quashed and listed building consent is granted.

Preliminary Matters

1. The appellants have made an appeal on ground (f) that copies of the listed building enforcement notice (LBEN) were not served as required by Section 38(4) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA Act). This requires a copy of the LBEN to be served, "not later than 28 days after the date of its issue and not later than 28 days before the [date specified in it as the date on which it is to take effect] - (a) on the owner and on the occupier of the building to which it relates; and (b) on any other person having an interest in that building which in the opinion of the authority is materially affected by the notice".

2. The arguments advanced list errors within the notice, as follows: – (i) The LBEN, at section 7, confirms it takes effect on 18 September 2020. The 'Explanatory Note' reiterates this. However, on the following page, it twice states that the LBEN takes effect on 11 September 2020. (ii) The first and second pages of the LBEN cite "section 9(1) of the above Act" when the Act cited is the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended). It should be the Town and Country Planning Act 1990 (as amended). (iii) The cover letter to the LBEN includes an error in the wording of the alleged breach where it states "slating" as opposed to "slatting".

3. It is claimed that this has caused confusion, impacting on the Appellants' ability to prepare for the appeal. However, even if the LBEN was not served as specified in section 38(4) of the LBCA Act, Section 41(5) allows for this fact to be disregarded if no substantial prejudice would result. The appellants have responded by way of an appeal. They have been given adequate notice and I am of the opinion that no substantial prejudice has resulted. The ground (f) appeal would not succeed, therefore.

4. As the points made by the appellants, (i) – (iii) above, also concern the validity of the LBEN and I shall address these matters in turn. (i) Crucially, the discrepancies occur in the explanatory notes, not the LBEN itself. It is clear to me that the reference to 11 September 2020 is an administrative error. (ii) The reference to the LBCA is correct. (iii) This is a minor typographical error.

5. Overall, the matters set out are relatively minor and do not go to the heart of the LBEN. The recipient of the notice would be in no doubt from within the four corners of the document what they are required to do or abstain from doing. Therefore, I do not consider the LBEN to be a nullity or otherwise invalid.

Ground (e)

Main Issues

6. The appellants contend that listed building consent ought to be granted for the works alleged in the LBEN, which is the addition of timber slatting to the existing boundary walls. The main issues are whether the works preserve a Grade II listed building, Nos 29 to 35 Northchurch Road N1, and any of the features of special architectural or historic interest that it possesses and the extent to which it preserves or enhances the character or appearance of the De Beauvoir Conservation Area.

Reasons

7. The listed building is an early to mid-19 Century near-symmetrical terrace. The houses comprise two-storeys over a basement and are constructed from stock brick with stucco detailing, each with elegant sash windows. I consider that the significance of the listed building, insofar as relates to the matters before me, can be attributed to the symmetrical appearance of the terrace and its architectural details, including the fenestration, which are consistent with the era.

8. The property is also located within the De Beauvoir Conservation Area, which comprises an area of residential development focussed on De Beauvoir Square. Its significance is derived from the plan layout and form of the houses and their complementary architecture.

9. The appeal property forms the end house in a terrace and is sited on a corner plot. Timber slatting has been erected on top of the eastern and western walls that form the side boundaries to a garden at the rear of the house. The slatting is constructed from horizontal boards of treated cedar that extend the height of the walls by approximately 650mm. The material reflects that of a recently constructed studio at the rear of the garden.

10. The slatting forms a relatively low-key alteration to the garden walls. It is not overly high and is constructed from high quality timber boards of a muted colour. I saw that the wider area is characterised by boundary treatments that

tend to be lower in height, although there are some exceptions in the immediate vicinity. Nonetheless, in my judgement, the slatting does not affect the overall appearance of the listed terrace nor does it interfere with its symmetrical appearance or architectural detailing. As such, it does not harm the significance of the designated heritage asset.

11. The slatting along the boundary with Ufton Road is prominently located and visible within the street scene. However, it does not stand out as an incongruous feature given its considered design. It complements the garden studio and cannot be described as clutter. I appreciate that the slatting extends the height of the walls to approximately 2 metres, but this does not impact on the views between the houses or create an unacceptable sense of enclosure, since the extent of slatting is limited. Crucially, the appreciation of the planned housing development remains evident and there is no impact on the significance of the Conservation Area as a whole.

Conclusion

12. Given the above, I conclude that the works preserve the special architectural interest of the Grade II listed building as well as the character and appearance of the Conservation Area, thus satisfying the requirements of the LBCA Act, paragraph 197 of the National Planning Policy Framework[1] and development plan policies insofar as relevant.

Conclusion

13. For the reasons given above I conclude that the appeal should succeed.

Formal Decision

14. The appeal is allowed and the listed building enforcement notice is quashed. Listed building consent is granted for the addition of timber slatting to existing boundary walls at 35 Northchurch Road, Hackney, London N1 4ED.

Debbie Moore

Inspector

[1] July 2021.